

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

RANDALL ELMER RATLIFF,)	
Petitioner,)	Civil Action No. 7:15cv00143
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
HAROLD CLARKE, <i>et al.</i>,)	By: Michael F. Urbanski
Respondents.)	United States District Judge

Petitioner Randall Elmer Ratliff, a Virginia inmate proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction and sentence in the Tazewell County Circuit Court. The court finds that Ratliff did not exhaust his state court remedies before filing this federal habeas petition and, therefore, will dismiss this action without prejudice.

I.

On July 5, 2011, the Tazewell County Circuit Court convicted Ratliff of abduction, statutory burglary, use of a firearm in the commission of a felony, and assault of a law enforcement officer. The court sentenced Ratliff to a total of 48 years of incarceration. Ratliff appealed and the Virginia Court of Appeals denied his appeal on March 5, 2012. Ratliff did not appeal to the Supreme Court of Virginia. Ratliff filed a petition for writ of habeas corpus in the Tazewell County Circuit Court on September 16, 2014, which the court dismissed on February 10, 2015. Ratliff did not appeal to the Supreme Court of Virginia.

II.

A federal court cannot grant a habeas petition unless the petitioner has exhausted the remedies available in the courts of the state in which he was convicted. Preiser v. Rodriguez, 411 U.S. 475 (1973). If the petitioner has failed to exhaust state court remedies, the federal court

must dismiss the petition. Slayton v. Smith, 404 U.S. 53 (1971). In Virginia, a non-death row felon ultimately must present his claims to the Supreme Court of Virginia and receive a ruling from that court, before a federal district court may consider his claims. See Va. Code § 8.01-654. In this case, it is clear that Ratliff has yet to pursue his instant claims in the Supreme Court of Virginia. Accordingly, the court finds that Ratliff's petition is unexhausted.

III.

Based on the foregoing, the court will dismiss Ratliff's habeas petition, without prejudice, as unexhausted.

Entered: April 1, 2015

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge